

REMARKS

Claims 1-44 are currently pending. Claims 1, 4, 15, 18, 21, 31, 34 and 39 are amended. Claims 9, 16, 25, 32 and 42 are canceled.

I. Continued Examination Under 37 CFR 1.114

In the Office Action, the Examiner indicates that Applicant's submission filed on October 20, 2006 requesting continued examination has been entered. However, the Examiner alleges that claims 1-39 are pending and Applicants submit that in the on October 20, 2006 submission, claims 1-44 are filed. Applicants respectfully request clarification and/or correction of the recitation of the number of claims pending.

II. Rejections under 35 U.S.C. 112

In the Office Action, claims 1-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. The Examiner alleges that independent claims 1, 18 and 34 recite "by absorbance of light by both of said colorants and said light light-absorbing particles" and clarification is needed. Applicants submit that the second occurrence of "light" does not occur in the set of claims filed with the October 20, 2006 submission and request re-consideration by the Examiner.

The Examiner alleges that claims 4, 15, 21, 31 and 39 recite a Markush group of pigments and it is unclear what are salt type (lakes) and condensation pigments and whether the pigments listed in parentheses are part of the Markush group or not. These claims are amended to delete term "(lakes)" and "condensation" from the recitation of pigments and to delete the parentheses in the claims. These amendments are for clarification only and no new matter is added.

The Examiner further alleges that Claims 6 and 23 recite a resinous binder and clarification is needed whether it is present in both layers of the claim.

Claims 6 and 23 are amended to clarify that the upper and/or lower layers comprise a curable polymer composition. Support for this amendment is found in [0029], [0030] and [0031] of the specification. This amendment is made for clarification only and no new matter has been added to the claim.

The Examiner alleges that claims 7, 8, 25, 18, 24, 34 and 35 are indefinite because the bases for the weight percentages are not recited in the claims. Applicants submit that one of ordinary skill in the art of coating composition formulation would understand that when the amount of an ingredient in a coating composition is recited in weight percent, it is based on the total weight of the coating composition unless there is a specific indication to the contrary. Please refer to the Declaration of Jim Claar filed herewith which provides further evidence of this argument.

Applicants submit that as-amended claims 1-44 overcome the rejection under 35 U.S.C. 112.

III. Rejection under 35 U.S.C. 102

In the Office Action, claims 1, 2, 4-6, 9-13, 15-19, 21-29, 31-37 and 39 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by United States Patent 5,997,627 (Babler). The Examiner alleges that Babler discloses all limitations of claims 1, 2, 4-6, 9-13, 15-19, 21-29, 31-37 and 39. Applicants submit that independent claims 1, 18 and 34 are amended to include the recitation that the second light level is of higher intensity than the first light level, and the lower layer has a color value L^* less than 40. Support can be found in paragraphs [0017] and [0018] of the specification. Further, claims 6 and 23 are amended to include the recitation that the resinous binder in the upper and/or lower layers comprises a curable polymer composition. Support can be found in paragraphs [0020] and [0029] of the specification.

Applicants submit that Babler discloses a pigment composition comprising porous filler particles, colored pigment and effect pigment. The coating composition can be applied to a substrate to yield a thin film having a three

dimensional effect. See column 3, line 60 to column 4, line 4. A clearcoat layer containing dye can be applied over the basecoat layer.

The claimed invention of claims 1, 18 and 34 include a coating composition having lower and upper layers wherein the composition exhibits a first colored appearance when exposed to a first light level and a second color appearance when exposed to a second light level having a higher intensity than the first light level. The first colored appearance is dominated by absorbance of light by both the colorants in the upper layer and the light-absorbing particles in the lower layer. The second colored appearance is dominated by fluorescent light emitted by the colorants. See [0018] of the specification. Further, the lower layer has a dark color as indicated by a color value L^* less than 40.

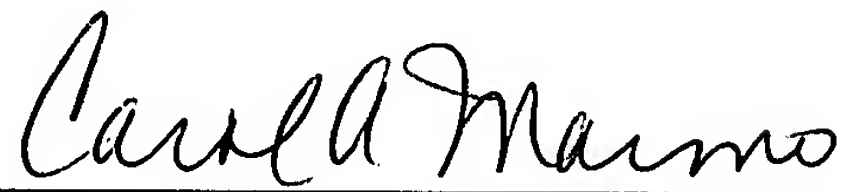
Babler does not specify a coating layer having a color value of L^* less than 40. Furthermore, Babler does not disclose or suggest any coating a multi-layer coating wherein the color effect exhibited is dependent on the intensity of light. Although Babler discloses a three dimensional effect, this is not the same as a color change effect as set forth in claimed invention. For these reasons, Applicants submit that the claimed coating composition of claims 1-44 is distinguishable from the composition disclosed in Babler and therefore this rejection should be withdrawn.

Claims 2-17 depend on claim 1, claims 19-33 depend on claim 18, and claims 35-44 depend on claim 34. Thus, Applicants submit that these dependent claims overcome this rejection for the same reasons as stated above for the independent claims.

IV. Conclusion

Applicants submit that claims 1-44 are in condition for allowance and respectfully request issuance of a Notice of Allowance for these claims.

Respectfully submitted,

A handwritten signature in cursive script, reading "Carol A. Marmo". The signature is written in black ink and is positioned above a horizontal line.

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